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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,362	01/26/2001	Jonathan M. Hager	444800-032	6442

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EXAMINER

RODRIGUEZ, RUTH C

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/771,362

Applicant(s)

HAGER ET AL.

Examiner

Ruth C. Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address.

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Invention I in Paper No. 7 is acknowledged.
2. Claims 5-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in Paper No. 7.

Priority

3. Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged. 0

Information Disclosure Statement

4. The information disclosure statement filed 16 April 2001 has been considered for this Office Action.

Claim Objections

5. Claims 1-12 are objected to because of the following informalities:

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- Claim 1, lines 3, 4 and 7, claim 2, lines 3, 4 and 6 and claim 3, lines 3, 4, 6 and 11 recites "E.S.L.". This should be replaced with the term --Electronic Shelf Labels--.

- Claim 1, lines 4 and 7, --computer-- should be inserted between "ESL" and "system".

Correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1 and 2 rejected under 35 U.S.C. 102(b) as being anticipated by Kayser et al. (US 6,089,453).

A computerized consumer shopping tool comprises an Internet web service system (42) and a plurality of store specific electronic shelf labels computer systems (40) each linked to the Internet web services system for communicating therewith (Fig. 2). Each electronic shelf labels system includes a database of electronic display tag display information records (28), a multiplicity of such records including a flag which when set acts as an annunciator trigger for operation of an annunciator in a corresponding display tag (20) (C. 45, L. 59-67 and C. 46, L. 1-

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15). Each electronic shelf label system is operable to communicate information to the Internet web service system regarding products (C. 13, L. 20-35). The communicated information includes the state of the flag associated with the products display tag information record (C. 13, L. 20-35). The Internet web service system monitors the flag of such records (C. 13, L. 20-35).

A computerized consumer shopping tool comprises an Internet web service system (42) and at least one electronic shelf labels system (40) linked to the Internet web services systems for communication therewith (Fig. 2). The electronic shelf labels system includes a plurality of electronic display tags (20) associated with products (C. 45, L. 59-67 and C. 46, L. 1-15). A multiplicity of the tag includes annunciators such as lights (C. 39, L. 59-67, C. 40, L. 1-12, C. 45, L. 59-67 and C. 46, L. 1-15). The electronic shelf labels system operable to control the annunciators to identify tags that utilize a tiered pricing schedule and the display tags controllable to display a plurality of the tiered prices (C. 39, L. 59-67, C. 40, L. 1-12, C. 45, L. 59-67 and C. 46, L. 1-15).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kayser in view of Deaton et al. (US 6,292,786 B1).

Kayser discloses a computerized consumer shopping tool comprises an Internet web services system (42) and at least one electronic shelf labels system (40) associate with at least one store and linked to the Internet web services system for communication therewith (Fig. 2). The electronic shelf labels system includes a plurality of electronic display tags (20) associated with the products. A multiplicity of the tags includes annunciators such as lights (C. 39, L. 59-67, C. 40, L. 1-12, C. 45, L. 59-67 and C. 46, L. 1-15). The electronic shelf labels systems operable to control the annunciators to identify tags that utilize a tiered pricing schedule (C. 39, L. 59-67, C. 40, L. 1-12, C. 45, L. 59-67 and C. 46, L. 1-15). The display tags controllable to display a plurality of the price tiers (C. 39, L. 59-67, C. 40, L. 1-12, C. 45, L. 59-67 and C. 46, L. 1-15). Kayser fails to disclose that the Internet web services system is operable to provide a given consumer with information regarding products of the at least one store. However, Deaton teaches a computerized consumer shopping tool accessible through an Internet web services system (12). The Internet web services system utilizes a tiered pricing schedule by providing incentives or coupons to a customer (C. 7, L. 46-59, C. 17, L. 54-57 and C. 18, L. 1-36). The Internet web services system is operable to provide a given consumer with information regarding products of the at least one store which are on the tiered pricing schedule (Fig. 1). The tiered pricing schedule stimulates sales by providing incentives and coupons to motivate the customer into purchasing the product (C. 2, L. 11-46). Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have the tiered pricing schedule accessible through an Internet web services system as taught by Deaton in the consumer shopping tool disclosed by Kayser such that the tiered pricing schedule is located at the at least one store such that the Internet services system is operable to provide a given consumer with

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information regarding products of the at least one store that are on the tiered pricing schedule, based upon information communicated from the ESL to the Internet web services system shown in Figure 2 of Kayser. Doing so, stimulates sales by providing incentives and coupons to motivate the customer into purchasing the products.

Deaton teaches that the Internet web services system is operable to identify the pricing tier applicable to the given consumer and to provide the given consumer with pricing information for that pricing tier (C. 18, L. 5-36).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pfeiffer et al. (US 5,198,644), Ackerman et al. (US 5,461,561), Briechle (US 5,704,049), Goodwin, III et al. (US 5,753,900), Goodwin, III (US 5,907,143), Goodwin, III et al. (US 5,943,654) and Swartzel et al. (US 6,552,663 B2) are cited to show state of the art with respect to electronic shelf labels controlled by a computer system.

Begun et al. (US 6,012,244) is cited to show state of the art with respect to a display unit to capture shoppers' attention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (703) 308-1881.

The examiner can normally be reached on M-F 07:15 - 15:45.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115.

Submissions of your responses by facsimile transmission are encouraged. Technology center 3600's facsimile number for before final communications is (703) 872-9326. Technology center 3600's facsimile number for after final communications is (703) 872-9327. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase the patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as PTO's mailroom processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP § 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee that the applicant is paying by check **should not be** submitted by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP § 512). The following is an example of the format the certification might take:

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(Typed or printed name of person signing this certificate)

(Signature)

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

RCR
rcr

August 25, 2003


ROBERT J. SANDY
PRIMARY EXAMINER